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ABSTRACT

Collective bargaining is intended to define what constitutes faculty union rights "nion claims to rights must be based on the content of the Agreement. Several union rights negotiated by faculty organizations with college and university administrations are detailed. These include agreements on who manages internal union affairs; rights that permit union survival; matters subject to consultation; rights of unions to hold meetings; union administration meetings; union board meetings; right to information; union rights to use of the institution's equipment and facilities; schedules for faculty union officers; and union representation on committees. Union rights are organizational rather than personal rights, and their intent is to help insure the survival and operation of the union as an organization. (JMF)

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COLLECTIVE BARGAINING PERSPECTIVES

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Harold I. Goodwin, Editor

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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Union Rights

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It is quite the order of the day for someone to claim to have a right to something merely because he wants that something to be his, or to be in his favor. Such a claim relies on what is good, just and proper in the eyes of he who desires the object or condition. Among contenders over that which is good, just, and proper there often is much legitimate difference of opinion.

Collective bargaining intends to remove the opinion basis of what constitutes union rights. When we speak of these union rights, we clearly place as rights those events and conditions contained in a law, a labor board ruling, the Agreement, or an institutional policy authorized by a Board of Trustees. When expressed in any of these sources, the right exists because it is lawful.

Under conditions of collective bargaining, the Agreement provisions obtained during bargaining reflect not only the law, the ruling or the policy, but also reflect as closely as can be negotiated faculty views of what is good, just, and proper. But, once the Agreement is ratified, and for its life, union claims to rights must be based on the content of the Agreement, and the union can make no further valid claim to have rights on the basis of what is good, just, and proper. [There always remains those claims generally the right of the faculty members individually outside their union association.]

The statements elaborated below are listed one way or another as union rights in the pool of Agreements negotiated with college and university administrations. These are rights of the union as an organization, not rights of union members as individuals even though an individual may be named by a position or a title.

Manage Affairs

Perhaps it is a natural assumption of unions and of administrations that unions have the exclusive right to manage their own internal affairs, for such a claim appears infrequently in faculty union Agreements. Where it does appear and is claimed to be a right, the claim merely indicates that the union has this right to manage its own affairs except to the extent the right is abridged by the Agreement, by law, or by a mutual accommodation with the institution.

Union Survival

Organizations cease to exist with the greatest of reluctance—survival is elementary: so it is with a faculty union. Unions negotiate terms of survival, or cause to have inserted in their Agreements this right legitimated elsewhere. Survival really means joining the union, maintenance of membership, exclusive representation, and explicit criteria for decertification or replacement.

Joining. Unless prohibited by law, it clearly is the right of the faculty to freely organize, join, and support a union for the purpose of engaging in collective bargaining and other concerted activities for mutual aid and protection. It is their further right that the administration may not put into effect or operation any form of penalty because of faculty exercise of this right.

Representation. Exclusive representation is a union right. The union claims the exclusive right to represent all faculty members in the unit in negotiating and consulting with the college regarding personnel policies and working conditions within the limits provided by the Agreement. In broader terms the exclusive representation term refers to wages, hours, and other terms and conditions of employment. The words "other terms and conditions of employment" are not open-ended. There are closures stated in enabling legislation, such as Pennsylvania PL 195, and there are closures decided by labor relations boards. Still, exclusive representation is the union right.

It follows from the above that one finds this specific statement of exclusive representation:

> The board agrees not to negotiate concerning wages, hours or terms or conditions of employment with any faculty member individually or collectively, or with any faculty organization other than the [union] for the duration of this Agreement. The salaries, hours, terms and conditions of employment set forth in this Agreement will not be changed without negotiation with the [union].

This same right may be further protected by continuing the statement of sole representation to indicate:

> The University shall not aid, promote, or finance any other group or organization which purports to engage in collective bargaining on behalf of employees in the bargaining unit covered by this Agreement.

To which may be added the words, "except as may be required by applicable law."

Maintaining Membership. Unions maintain their membership rolls in a variety of ways. One union right prohibits the administration from removing an instructor from the bargaining unit without the instructor's consent by having administrative or supervisory duties added to the instructor's duties.

A variation in maintaining membership states that titles of current bargaining unit members will not be changed if the title change excludes them from the bargaining unit unless the change is clearly a change in responsibilities.

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Matters Subject to Consultation

The right of consultation ranges greatly in subject matter. Here are three examples that become increasingly more explicit as to the included rights of the union.

1. The Board shall endeavor to consult with the union on any new or modified fiscal, budgetary or tax program, construction of programs or major revisions of educational policy, which is proposed or under consideration and the union shall be given opportunity to advise the Board with respect to said matters prior to their adoption and/or general publication.
2. The Board recognizes the union as the bargaining agent in these areas: sick leave, personal leave, hospitalization and insurance, sabbatical leave, tenure, number of preparations, class size in relation to the teaching situation, contract hours, and seniority in special assignments.
3. Matters appropriate for consultation and discussion include, but are not limited to, regulations, policies, and practices which are within the administrative discretion of the primary organization unit concerned and which relate to personnel management, working conditions, and related matters, such as:
   a. Policy on greivances and intra-departmental employee appeals, including the development and operation of grievance and appeals systems;
   b. Policy on the work environment of employees, including light, hearing, ventilation, cleanliness and sanitation, and safety practices and equipment;
   c. Policy on the design and scheduling of work, including tours of duty, rotation assignments, joint employee management cooperation committees, meal periods, and vacation scheduling, but not including the assignment of work.
   d. Policy on career practices and procedures, including promotion plans, opportunities for training, apprenticeships, reduction-in-force procedures, and disciplinary practices and procedures;
   e. Policy on employee benefits and services, including lunch rooms, snack bars, coffee breaks, banking, check-cashing services, recreation facilities, and transportation and parking arrangements;
   f. Policy on pay, within the limits of administrative discretion permitted by law, including policy on the following matters: Salary surveys, salary schedules, advancement practices with salary schedule rates, criteria for labor market areas, and practices relating to an opportunity to earn overtime, call back, and differential pay; and
   g. Policy on services to employees organizations, including the use of bulletin boards, use of intra-office distribution facilities, official newspapers, and meeting facilities on Government premises.

By example No. 3 we see that most of the opinion of what is included in the right of consultation has been removed by mutual determination and is now an agreement right of some proportion.

Meetings: Union

The union's rights to conduct their organizational meetings may be contractually recognized, but the substantive issues are few in number.

There is the right to a specific number of hours that must be set aside for union meetings. The variations range from one hour per month to two hours on the other alternate weeks for union committee meetings.

Who has the right to authorize the call for a union meeting is rather clear cut—the union president, or the college administration, or the union and the college president together.

There is the further right of the union that prohibits the administration from scheduling other activities requiring faculty attendance during the same hours as scheduled union meetings. Scheduled union meetings take precedent over all other campus meetings involving union members. However, if the institutional president and the union president agree that an unusual circumstance exists, another activity may be scheduled during the hours set aside for union meetings.

Meetings: Union-Administration

Union-administrator meetings occur at three different levels of the institution. At the level of the college president two forms are found. In one form the institutional and union presidents agree to meet at predetermined times for the purpose of mutual explorations of "legitimate and proper subjects of collective negotiations." The second form is more directive, as shown in the following passage:

> In the event the employer desires to communicate with the [union] during the life of the agreement, the President or his designee shall direct a written communication to the President of the [union], the President or his designee shall direct a written communication to the President of the [union], set forth the purpose of the meeting, and fix the time and place of such meeting; provided, that if the time set for such meeting shall conflict with any work to be performed by the President of the [union], he shall be excused from performing such work.

The union also can have the right to periodic meetings with an appropriate dean. Similar in nature to presidential meet and confer sessions, meetings with deans may extend beyond the range of the Agreement if agreed to by the dean.

Meetings between union personnel and department chairpersons are similar in nature to the meetings with deans.

Meetings: Union-Board

A number of conditions characterize union-Board meetings—agendas, for example. The range of union rights is illustrated by the following passages.

1. The union may add to the agenda provided that notice of request for the addition of an item to the agenda of a Trustee's meeting shall be delivered to the Office of the President, in writing, not less than twenty-one (21) calendar days prior to the Trustee's meeting at which consideration is requested. Such notice shall reasonably detail the subject matter thereof, and where applicable, be accompanied by appropriate documentation or instrumentation that preliminary study of the same by the Trustees may be accommodated.

2. The Union shall have the right to enter appropriate matters on the Board agenda. Background material to be included in the agenda must be supplied a reasonable length of time prior to the meeting.
3. The union representatives shall be seated at the table with the members of the Board at all Board meetings and shall be allowed to enter any item on any agenda.
4. The President or agent of the union, shall appear on the agenda of all Board meetings as the first item of correspondence, verbal.

Other rights associated with Board meetings are notification of all Board meetings; agendas in advance of the meetings; copies of all materials to be distributed at Board meetings; and, if Board meetings are held during class hours, to attend with no loss of salary.

Right to Information

The nature of information to be made available to the union varies considerably from institution to institution. While one institution wants copies of Trustee policies, the budget, employee benefits brochures, and job descriptions, a different college claims the right to the names and addresses of all faculty personnel, including evening, off-campus, and summer school. And, they want that information updated either periodically or upon request.

Still another institution seeks to obtain all available information concerning financial resources and conditions of the college, including but not limited to annual financial reports and audits, register of certificated faculty members eligible to participate in the bargaining unit, and annual budgetary proposals to the Board of Trustees.

Other types of information sought by unions include any and all statistics and records which are public information, a listing of all part-time faculty, print-outs of scheduled classes and class enrollments, and all information concerning grants available to the faculty and new legislation of faculty interest.

Equipment and Facilities

There is some feeling that faculty unions have extensive access to college facilities and equipment. When we add together all those things found in the several contracts to show the range of union rights in this area, what is available to the union may seem extensive. At any one institution only a portion of what appears below may be available to the union. Often very little is actually provided to the union. What follows is a general summary from the pool of Agreements.

- The union may purchase expendable office supplies at the bookstore at a price not greater than charged to departments.
- An account number may be set up in the comptrollers office to permit billing of the union for the use of space and equipment.
- The range of equipment made available includes copying and printing services, desks, chairs, file cabinets, typewriters, bookcases, audio-visual equipment, and a telephone. An inside phone line may be free, but outside lines are at union expense. Usually this list of equipment is free of charge, but a reasonable fee may be charged.
- A variety of qualifications affect the use of space for union meetings, such as: available at least once per week, reservation reasonably in advance of use, use must not interfere with normal college operations, usually no cost to the union, although a fee may be charged if departments are charged for the use of that space, the union must comply with all college rules and regulations, and a fee may be charged if special custodial services are required.
- Payment must be made by the union for all damages or loss of equipment and facilities, and if abuses occur, usage can be terminated.
- The union president often is provided with a private office, although the union office may serve as the union president's regular faculty office as well. On occasion an entirely separate union office may be provided. Office space is usually but not always free of charge.
- The union office is located so that a secretary is near enough to answer the phone. Secretarial service, if on a regular basis beyond student help, is not a union right as found in the Agreements.
- Bulletin boards may be used to post notices of faculty concerns of union activities. However, nothing profane, obscene, or defamatory of the college or its representatives or to any individual may be posted, nor may any election campaign materials.
- Unions usually have the right to use the institution's mail service free of charge for internal mail distribution if that mail is limited to non-personal materials.
- Finally, and rarely cited, the Board may cancel the right of the union to use of its equipment at any time during the term of the Agreement. Such decisions shall be at the sole discretion of the Board or its agents, *and such decisions or the results thereof shall not be subject to the grievance and arbitration provisions of the Agreement.*

Schedules for Faculty Union Officers

There are three distinct types of information contained in the Agreement provisions concerning faculty union officers. One type of information is related to their union obligations. Here we find such provisions as:

- Activities that cannot be performed other than during normal college hours.
- Activities that result from an emergency situation.
- Transactions of official organizational business on college property.
- Activities that do not interfere with or disrupt normal college operations.
- Visits to other colleges for purposes relating to union affairs.
- Official union representative at conferences and meetings.
- To investigate and process grievances and confer with the college president or the president's designee concerning the provisions and application of the Agreement.

The second type of information falling under this general classification pertains to the negotiation of an Agreement. The following passages from an Agreement are instructive.

> The Chairperson of the Association's negotiating team will not be assigned to any department or division committee or registration activities commencing with the Winter term prior to the expiration date of the contract and extending through the Summer term or until a new contract is ratified and approved. Two other members of the Association's negotiating team will not be assigned to any department or division committee or registration activities commencing with Summer term prior to the expiration of

the contract and extending until a new contract is ratified and approved. The remaining members of the negotiating team, not to exceed three (3) in number will not be assigned to any department or division committee or registration activities commencing with the Summer term prior to the expiration date of the contract and extending until a new contract is ratified and approved.

The Association's President and Grievance Chairperson will not be assigned to any department or division committee or any registration activities during their period of office.

The third type of information concerns the amount of time away from professional duties the union official may take for union organization affairs.

The amount of time the union offical may be released from institutional duties without loss of pay or loss of full-time status varies from one section per semester to one three-credit course per semester to one-third or one-fourth of the usual teaching load to a maximum of 9 contact hours per semester.

The most unusual case we have on file reads:

> The Board shall grant to the President of the Association and bear the cost of released time from one-quarter of his normal teaching load each semester for the purposes of implementing the terms of this Contract.
>
> The Board shall also provide the union the option to purchase released time for its Chief Negotiator not to exceed one-half of his normal teaching load each semester, and the option to purchase released time for the President not to exceed one-quarter of his normal teaching load each semester.

We are not informed in the contract about any of the specifics related to the purchase costs of the released time for either person.

Union and Committees

As in all other matters when considering them from aggregate data, union rights vary in this topic, too. Perhaps three passages from Agreements will suffice.

- The Association should have representation on all major committees.
- The Faculty Association shall appoint one (1) member to each of the College's standing committees.
- The Faculty Association may appoint one or more observers to all college committees where faculty members participate if such committees are involved in institutional planning or consider faculty rights and responsibilities.

Miscellaneous Rights

Unions negotiate certain conditions that appear to be institutionally unique and to defy a classification system other than miscellaneous. Here is a sample of those "rights."

- The Faculty Association shall be granted a place and time on the orientation agenda.
- A packet of materials prepared by the union may be sent to each new bargaining unit member of the University.
- The Employer shall, upon written authorization by the faculty members, provide exclusive payroll deduction of Association membership dues. The Employer shall remit such dues to the authorized Association representative.
- All material to be included in the Faculty Handbook for the ensuing academic year will be made available to the President of the Faculty Association or his/her designee(s) [no more than three] prior to the final reproduction of the Handbook for the purpose of evaluating the harmony of the material as it relates to the Agreement.
- The University agrees that it will publish for consideration by the University community all proposed and adopted changes in and additions to official University rules and regulations.
- Union headquarters representatives who are not employed at the Academy shall, on appointment, be permitted to visit the Academy during working hours to participate in discussions relative to personnel policies and practices or other matters affecting general working conditions in scheduled meetings between the union and the Academy.
- The Employer shall permit representatives of the Association's parent organizations to visit schools for any purpose relating to the terms and conditions of this agreement. If conferences with teachers are necessary, they shall not be scheduled so as to interfere with the instructional program. The representative shall notify the school administrator of his presence.
- Association representatives may use the visitor's parking lot facilities near the Administration Building when on official Association business in said building and only when space is available.
- Since the American Association of University Professors has historically been a professional organization, professional participation in Association activities shall be credited as University service in the same manner that other professional service is credited.
- University shall list one union telephone number in the University Telephone Directory.

Union rights are organizational rather than personal rights, and their intent is to help insure the survival and operation of the union as an organization. These rights are claims based upon the law, upon labor board rulings, upon institutional policies, but to a very large degree they are reflections of the union's view of what is good, just and proper in light of the union leadership's need to conduct the affairs of the union and thus to preserve the trust placed in them by those who cast the union vote.